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# Presidential Address: The Internationalization of Agriculture: Preparing for the Twenty-First Century

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## Presidential Address

# The Internationalization of Agriculture: Preparing for the Twenty-First Century

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### I. INTRODUCTION

Two significant issues facing agriculturalists as they prepare to change centuries involve appraisals of agricultural transformations from a global perspective and projections of future developments. The American Agricultural Law Association (AALA) has addressed these issues from a number of different perspectives in its conference programs. International speakers at past programs have included several experts from the European Community (EC)<sup>1</sup> and other

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- \* 1993 President of the American Agricultural Law Association (AALA) and Professor in the College of Agriculture and Environmental Sciences at the University of Georgia. This Presidential Address was presented to the AALA Conference, November 12, 1993, San Francisco, California.
- 1. At the 1992 AALA Conference, Claudio d'Aloya, Head of Division of Directorate BII—Structures, General Secretariat of the Council of Ministers of the EC, articulated "Legal Aspects of the Reform of the Common Agricultural Policy" (13th AALA Conference Handbook, Part 14), and Bernhard Schloh, Legal Counsellor at the Council of the EC, spoke on "The Role of the Court of Justice in the Application of the EC's Common Agricultural Policy" (13th AALA Conference Handbook, Part 15). In 1991, Louis Lorvellec, Professor of Law, University of Nantes, spoke on "EC '92 and Agriculture" (12th AALA Conference Handbook, Part 32). See also Wim Brussaard, *Protecting Agricultural Resources in Europe: A Report from the Netherlands*, 24 IND. L. REV. 1525 (1991); Rudi Gotzen, *European Community Perspective of Production Subsidies and Controls*, 37 DRAKE L. REV. 231 (1987-1988).

authorities on international issues.<sup>2</sup> Last year's Presidential Address by Neil Hamilton concerned six theoretical and philosophical issues for consideration by agricultural lawyers<sup>3</sup> while policy projections for the 1990s were the topic of a previous conference.<sup>4</sup> To further expand the AALA's educational activities regarding international issues, the AALA Board of Directors has proposed a colloquium with European agricultural lawyers in Oxford, England, scheduled for September 18-19, 1995. This colloquium should provide another fantastic learning opportunity for the AALA membership.

Given the interest in international issues, this Address continues with the dual themes of global perspectives and future developments, and inquires how agriculturalists should be preparing for the twenty-first century in view of the internationalization of agriculture. Three topics will be addressed: (1) governmental support of production, (2) assistance provided by land grant colleges and universities, and (3) the agendas of agricultural support groups. Commenting on these topics, this Address delineates some perspectives for consideration as agriculturalists prepare for the next century.

## II. GOVERNMENTAL SUPPORT OF PRODUCTION

To approach this theme, this Address will hark back to the last century, tying various developments to selected personal information. In 1872, Frederick Centner, who was working as a lineman on a railroad, bought a small farm in upstate New York. Frederick, my great-grandfather, had been raised in Mecklenburg, an independent state in northern Germany, and the Centner family had labored for the landowners of the substantial estates in this area. Three years ago, I was able to visit Frederick's birthplace near Waren, Germany. Due to the agricultural policies of the former East German government, large fields of golden grain were the predominant feature of this area. In fact, the Mecklenburg landscape may have looked more like Penn-

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2. See, e.g., Julian B. Heron, Jr. & Pamela D. Walther, *Pacific Rim as a Future Market for U.S. Agriculture*, 23 U.C. DAVIS L. REV. 499 (1990); Sherwin Lyman, *International Agricultural Trade: A Canadian View*, 12 HAMLINE L. REV. 559 (1989); John S. Markle, *Slaying the Sacred Cow: Looking for Consensus in the Reformation of World Agricultural Trade*, 68 N.D. L. REV. 607 (1992); James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431 (1990); James F. Smith & Marilyn Whitney, *The Dispute Settlement Mechanism of the NAFTA and Agriculture*, 68 N.D. L. REV. 567 (1992); Alicia F. Tocco, *United States-Canada Free-Trade Agreement*, 12 HAMLINE L. REV. 479 (1989); Helge Wulff, *Recreational Access to Agricultural Land: The European Experience*, 24 IND. L. REV. 1641 (1991); David Purnell, 1993 *International Trade Update: The GATT and NAFTA*, 73 NEB. L. REV. 211 (1994).
  3. Neil D. Hamilton, *Issues Shaping the Future of Agricultural Law*, 19 WM. MITCHELL L. REV. 271 (1993).
  4. Gordon C. Rauser & David Nielson, *Looking Ahead: Agricultural Policy in the 1990s*, 23 U.C. DAVIS L. REV. 415 (1990).

sylvania or Iowa than Western Europe, due to the absence of small fields.

In the United States, Frederick Centner developed a productive family farm, and my grandfather had a diversified operation selling fruit, vegetables, chickens, eggs, milk, and meat to nearby urban residents. After the farm was passed to my father, the diversity gave way to specialization in dairy and grape production. Now, my father is retired and manages the farm's grape production, with sales to a cooperative with a global market. Part of the farm is in the Conservation Reserve Program (CRP).

The lessons from these personal observations are probably apparent to everyone. In the United States, the small diversified family farms of the nineteenth century have for the most part given way to specialized holdings of a larger size, with international markets. Similar developments have occurred in Western Europe, although various EC policies have tended to preserve smaller holdings. And regardless of whether one is looking at American or European fields of grain, the viability of many agricultural operations is closely tied in part to governmental programs providing some type of support for such agricultural production, including conservation programs such as the CRP<sup>5</sup> or the EC's extensification program.<sup>6</sup>

An issue facing agriculture is whether the federal government will continue existing agricultural support programs. Obviously, there are people who favor the repeal of current price support policies,<sup>7</sup> and economic experts generally conclude that governmental interference in agriculture is inefficient and has a deleterious effect on free enterprise.<sup>8</sup> Pressures resulting from the federal deficit will cause greater scrutiny of some support programs; presumably there will be an effort to decrease government costs, or in the alternative, the imposition of new conditions on program support requiring additional measures to protect the environment.<sup>9</sup> Beginning in October 1995, millions of additional acres will become available for agricultural production due to the expiration of the CRP contracts.<sup>10</sup> And international agreements, such as the North American Free Trade Agreement (NAFTA), may

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5. 16 U.S.C. §§ 3831-3836 (Supp. IV 1993).

6. 1988 O.J. (L 106) 28.

7. See Thomas J. Schoenbaum, *Agricultural Trade Wars: A Threat to the GATT and Global Free Trade*, 24 ST. MARY'S L.J. 1165, 1194 (1993).

8. G. Edward Schuh, *Guest editorial: NAFTA, Public Education, and Policy Gaps*, CHOICES, 3d Quarter, 1993, at 1.

9. See Terence J. Centner, *Changes Impacting Production Agriculture: NAFTA and New Environmental Regulations*, 24 U. Tol. L. Rev. 371 (1993).

10. Ralph E. Heimlich & C. Tim Osborn, *The Conservation Reserve Program: What Happens When Contracts Expire?*, CHOICES, 3d Quarter, 1993, at 9.

lead to the demise of some of the existing programs.<sup>11</sup> The AALA and lawyers may need to help agriculturalists and clients prepare for and adjust to these developments.

### III. LAND GRANT ASSISTANCE

Like so many other American immigrants of the nineteenth century, my great-grandfather took the existing natural resources and developed a sustainable agricultural livelihood. But the success of my family in managing and maintaining a viable economic enterprise presumably was due in part to the assistance provided by the land grant system. In 1862, a visionary senator from Vermont proposed a bill in Congress containing the underpinnings of a land grant system to assist Americans in rural areas.<sup>12</sup> In the same year, Congress created the United States Department of Agriculture (USDA).<sup>13</sup> This was followed by the Hatch Act of 1887,<sup>14</sup> which provided funds for supporting agricultural experiment stations, and the second Morrill Act in 1890,<sup>15</sup> which provided funding for black land-grant schools in sixteen states. And in 1914, the Smith-Lever Act<sup>16</sup> provided for the funding of local cooperative extension staff. Most would agree that these legislative developments were instrumental in enabling American agriculture to become increasingly productive and the envy of the world.

The concept of the land grant college and university has received considerable attention and does not need elaboration.<sup>17</sup> The successes of the land grant system include a productive, modern, and efficient agriculture in the United States, land grant universities teaching thousands of students (including hundreds of foreign students), research from land grant universities being applied throughout the world, and land grant university projects in foreign countries. Some may argue that the land grant system has been too successful; the United States has an overabundance of many foodstuffs, and training

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11. See Thomas J. Schoenbaum, *The North American Free Trade Agreement (NAFTA): Good for Jobs, for the Environment, and for America*, 23 GA. J. INT'L & COMP. L. 461 (1993).

12. Morrill Act, Ch. 130, 12 Stat. 503 (1862)(codified as amended at 7 U.S.C. §§ 301-305, 307, 308 (1988)).

13. Ch. 72, 12 Stat. 387 (1862)(codified as amended at 7 U.S.C. §§ 2201, 2202, 2204, 2206-2208, 2215 (1988)).

14. Hatch Act, Ch. 314, 24 Stat. 440; (codified as amended at 7 U.S.C. §§ 362, 363, 365, 368, 377-379 (1988)).

15. Ch. 841, 26 Stat. 417; (codified as amended at 7 U.S.C. §§ 321-326, 328 (1988)).

16. Smith-Lever Act, Ch. 79, 38 Stat. 372; (codified as amended at 7 U.S.C. §§ 341-348 (1988)).

17. See G. Lester Anderson, *LAND-GRANT UNIVERSITIES AND THEIR CONTINUING CHALLENGE* (1976); Alice H. Songe, *THE LAND-GRANT IDEA IN AMERICAN HIGHER EDUCATION* (1980). See also Bruce R. Beattie, *Some Almost-Ideal Remedies for Healing Land Grant Universities*, 73 AM. J. AGRIC. ECON. 1308 (1991); G. Edward Schuh, *Revitalizing Land Grant Universities*, CHOICES, 2d Quarter, 1986, at 6.

and assistance from land grant universities has enabled other countries, such as Brazil and Argentina, to develop their agricultural resources into productive and competitive business operations.

A question that may need to be considered is whether the success of the land grant system is guaranteed for the twenty-first century or whether changes might be appropriate. To address this issue, one might reflect back to the Morrill Act and inquire whether it simply intended to deal with agricultural production and technology or whether it intended to confront some of the broader social issues of the day. The Act required the individual states to use the monies made available to them:

for the endowment, support, and maintenance of at least one college where the leading object shall be . . . to teach such branches of learning as are related to agriculture and mechanic arts . . . to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.<sup>18</sup>

A reading of this legislative provision, and of historical sketches of American life in the 1860s, supports an interpretation that the land grant mission was to encompass a broad spectrum of contemporary objectives. Adopting this interpretation, the issue is whether land grant colleges and universities are meeting this mission, and how might they evolve to meet the problems of the twenty-first century?

Society today is faced with major issues including violence, drugs, school dropouts, teenage pregnancies, single parent families, environmental contamination, decaying communities, the federal deficit, and international competition. The research, teaching, and extension programs of many land grant universities address a number of these issues; however, many agriculturalists see these problems as urban problems that are beyond the scope of the land grant system. Drawing on recent commentaries,<sup>19</sup> four alternatives for land grant institutions may be identified: (1) continuing service primarily to commercial farmers, (2) building a support base among consumers, (3) redefining the mission to focus on the well-being of all rural residents, or (4) broadening the land grant system to address contemporary issues affecting the entire country—both urban and rural.

A continuation of existing land grant programs, many of which were adopted in a different era in response to problems that were quite different from the issues of today, may not be the best strategy for the twenty-first century. In fact, such action could result in dimin-

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18. Morrill Act, Ch. 130 § 4, 12 Stat. 504 (1862)(codified as amended at 7 U.S.C. § 304 (1988)).

19. David L. Debertin, *There is a Future for the Land Grants, If . . .*, CHOICES, 3d Quarter, 1992, at 47; Theodore L. Hullar, "The Future of the Land Grant University in the United States," D.W. Brooks Lecture, The University of Georgia, (Oct. 4, 1993)(available from the College of Agricultural and Environmental Sciences, University of Georgia).

ished support due to the exclusion of most Americans from this system and its lack of relevance to current issues. Agriculturalists, including professionals at land grant universities, may want to broaden the scope of the land grant system to address more of this country's contemporary problems in order to build a broader and more effective coalition supporting current and future agricultural activities.

#### IV. AGRICULTURAL SUPPORT GROUPS

In 1868, three years after my great-grandfather declared his intent to become an American citizen, Oliver Hudson Kelley came to Fredonia, New York, and helped establish the first actual working Grange<sup>20</sup> in the United States, Fredonia Grange No. 1.<sup>21</sup> My father served as a Master of this Grange, and for nearly 100 years this institution was a significant social and educational part of the my family's community. Although both as a local and national organization the Grange has diminished in importance,<sup>22</sup> over the years it provided a stage for the development of other agricultural support groups, such as the G.L.F. Exchange, the predecessor of Agway, Inc., and many local Farm Bureau units.<sup>23</sup>

The question that might be asked is what are the Grange and other agricultural support groups doing with respect to contemporary social and international issues; do they see such issues as part of the agricultural agenda? A perusal of the literature of agricultural support groups tends to disclose that they are exceptionally strong advocates for agriculture, very concerned about international competition, but often not very involved with current social issues. The crux of the issue of agricultural support groups is whether they preform so well as advocates that they, and some of the residents of rural America, are unable to appreciate the needs and social issues of our country as a whole. Do advocacy positions of agricultural support groups preclude or exclude a more balanced view of contemporary issues? Although agricultural interest groups should be advocates for their constituents, their agendas might present both sides of the issues and incorporate some of the basic social issues of our country.

Addressing the concern of agricultural groups with international competition, current NAFTA and General Agreement on Tariffs and Trade (GATT) proposals have received extensive press, and rightly so given the importance of agricultural exports. In 1991, the United States exported \$37.6 billion of agricultural exports, which accounted

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20. The Grange is also known as the Order of Patrons of Husbandry. See CHARLES M. GARDNER, *THE GRANGE—FRIEND OF THE FARMER* (1949).

21. *Id.* at 271.

22. See William L. Letwin, *Congress and the Sherman Antitrust Law: 1887-1890*, 23 U. CHI. L. REV. 221 (1955-56).

23. GARDNER, *supra* note 20, at 367.

for approximately ten percent of this country's exports.<sup>24</sup> The USDA projects that after the expiration of the fifteen-year transition period during which tariffs and quotas are scheduled to be eliminated under NAFTA, U.S. agricultural exports to Mexico would be nearly \$2 billion higher than they would have been without NAFTA.<sup>25</sup> Moreover, the USDA projects that the increased demand for exports under NAFTA will create 54,000 jobs in the agricultural sector.<sup>26</sup> How paradoxical that the USDA projects such benefits, but a considerable number of agricultural support groups oppose this agreement.

The most visible reaction has been opposition by numerous agricultural commodity groups who fear increased competition from countries where producers or marketing organizations enjoy a competitive advantage. The opposition is generally based on beliefs that foreign competitors enjoy one or more unfair advantages. Less stringent foreign environmental laws, foreign price and income supports, import levies, lower quality goods, use of banned pesticides, lower wages, and absence of labor regulations in foreign countries may be noted as grounds for opposing proposed international agreements.

While some of these arguments have merit, the issue of whether the United States or agricultural support groups should back NAFTA or GATT is more complex. Moreover, some of the issues raised in opposition to proposed international agreements are not as severe as claimed or are smoke screens to mask other issues. For example, there is considerable concern about the use of banned pesticides on food products entering the United States; however, that is illegal.<sup>27</sup> Rather than arguing that the use of banned pesticides justifies repudiation of an international agreement, perhaps a more appropriate response would be to implement more effective detection or enforcement provisions, activities, and regulations that would preclude foodstuffs not meeting U.S. standards.

At the same time, much of the debate on NAFTA by the public and agricultural groups reveals a lack of knowledge of the benefits and dynamic effects of trade liberalization.<sup>28</sup> Signatories of an agreement invoking trade liberalization should benefit. The production of agricultural products should adjust to those areas with a comparative economic advantage, and due to this country's natural resources, the United States should continue to have significant agricultural production. As noted, the USDA projects that NAFTA would benefit U.S.

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24. U.S. DEPARTMENT OF AGRICULTURE, AGRICULTURAL STATISTICS 484 (1992).

25. EDWARD MADIGAN, U.S. DEPARTMENT OF AGRICULTURE, STATEMENT-NORTH AMERICAN FREE TRADE AGREEMENT (1992); ANN M. VENEMAN, U.S. DEPARTMENT OF AGRICULTURE, STATEMENT-NORTH AMERICAN FREE TRADE AGREEMENT (1992).

26. MADIGAN, *supra* note 25; VENEMAN, *supra* note 25.

27. See 7 U.S.C. §§ 136-136y (1988 & Supp. IV 1992); 21 U.S.C. § 1402 (1988).

28. G. Edward Schuh, *Guest editorial: NAFTA, public education, and policy gaps*, CHOICES, 3d Quarter, 1993, at 1.



agriculture. Existing protective measures for segments of U.S. agriculture may not be in the best interests of the country and may not constitute the most effective method to assist persons who are involved in an uneconomical agricultural activity. Rather than oppose trade liberalization, such as would occur under NAFTA, agricultural support groups might concentrate on positive adjustment policies to help labor and capital adjust to alternative economic activities.<sup>29</sup> Various EC institutions may serve as examples.

On a broader note, the opposition to NAFTA may have far-reaching international repercussions, especially in the Western Hemisphere. Mexicans and many Latin Americans view NAFTA as an instrument to implement a new era where the United States chooses cooperation over intervention.<sup>30</sup> Ratification of NAFTA should help improve relations with Mexico and send a message to all of Latin America that the United States is interested in hemispheric cooperation.<sup>31</sup> Given that this nation's yearly agricultural exports are worth over \$37 billion, the United States should continue to cooperate with countries throughout the world.

## V. CONCLUSION

The changes that have occurred in agriculture over the past century disclose a successful effort of governmental assistance in using technology and science to increase food and fiber production. An agriculture that had been unscientific, labor intensive, and had consisted primarily of local markets, has evolved into an agriculture that is scientific, capital intensive, and has global markets. Agriculturalists possess impressive skills—whether it is an individual farmer overcoming a catastrophe such as a flood or drought, an agricultural law professor expounding upon a new legislative or judicial development, or a lawyer assisting a client. Despite geographical separation and the limited opportunities of many rural areas, agriculturalists tend to be extremely capable, talented, and dedicated to their ideals.

As agriculturalists prepare for the twenty-first century, they must inquire whether their institutions and their players have kept pace with these changes. Are governmental support programs, land grant policies, and the current agendas of agricultural support groups appropriate for the next century? Or are these items leftovers from the nineteenth and twentieth centuries outside the broad milieu of political and economic developments of the current world? Lawyers, members of the AALA, and friends of agriculture all support agriculture

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29. This could involve investments in human capital and raising the productivity of our labor force. *Id.*

30. Tom Teeppen, *NAFTA: Erasing 'Ugly Yanqui' Image*, THE ATLANTA CONST., Nov. 3, 1993, at A17.

31. *Id.*

and would like to assist agricultural clientele in successfully adapting to the developments of the twenty-first century. The question is what should agriculturalists be supporting. Does a supporter of agriculture reject or oppose the demise of a government support program because it will harm a small segment of our rural constituency? Are supporters of agriculture too busy to be concerned with social issues of the masses? Do champions of agriculture support a favorable agenda for agriculture that does not represent the best interests of this country?

There are no right answers to these questions, and agriculturalists will have different opinions and reach different conclusions on these conflicts as they arise over the coming years. However, the following three admonitions may help agriculturalists select better answers. First, agriculture must be willing to change, and this presumably will mean the demise of some agricultural operations and governmental programs and increased environmental regulations.<sup>32</sup> Second, if agriculture becomes too narrow in its focus and strays too far from the political and economic mainstream, it may lose its ability to garner support for its programs. And third, due to the limited information accessible to many rural residents, counselors of agricultural clients may need to provide more information than is currently available from agricultural support groups. The advocacy positions advanced by such groups may need tempering so that agriculturalists are more fully informed and can make better decisions in preparing for the twenty-first century.

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32. See Terence J. Centner, *How Regulations Incorporating Environmental Values Transcend International Commitments and Affect Production Agriculture*, 27 J. WORLD TRADE 131 (1993); Thomas J. Schoenbaum, *Free International Trade and Protection of the Environment: Irreconcilable Conflict?*, 86 AM. J. INT'L LAW 700 (1992).